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IN THE UNITED STATES DISTRICT COURT

FOR THE SOUTHERN DISTRICT OF CALIFORNIA

LUCKY BOBS INTERNET CAFE, LLC, Plaintiff, **v.** **CALIFORNIA DEPARTMENT OF JUSTICE, and DOES 1-25, inclusive,** Defendants.	Case No. '11CV0148 BEN JMA State Court Case No. 37-2009-00057438-CU-MC-NC (San Diego County Case) **Consolidated with** State Court Case No. 39-2009-00221372-CU-MC-STK (San Joaquin County Case) **NOTICE OF REMOVAL OF CIVIL ACTION** 28 U.S.C. § 1446(a)
STOCKTON ENTERPRISES, LLC, and STOCKTON DÉJÀ VU BOUTIQUE, LLC, **Plaintiffs,** **v.** **CALIFORNIA DEPARTMENT OF JUSTICE, and DOES 1-25, inclusive,** **Defendants.**	

NOTICE OF REMOVAL to the honorable judges of the United States District Court for the Southern District of California:

Removing party, the California Department of Justice (Defendant), by the undersigned attorney, respectfully shows this Court:

1. Removing party is a defendant in the above-entitled consolidated action.

2. On July 17, 2009, *Stockton Enterprises, LLC and Stockton Déjà Vu Boutique, LLC v. California Department of Justice* was commenced against Defendant in the Superior Court of the State of California for the County of San Joaquin. (Case No. 39-2009-00221372-CU-MC-STK.)

3. On July 20, 2009, *Lucky Bobs Internet Café, LLC v. California Department of Justice* was commenced against Defendant in the Superior Court of the State of California for the County of San Diego. (Case No. 37-2009-0057438-CU-MC-NC.)

4. On September 25, 2009, the Superior Court for the County of San Diego ordered the transfer and consolidation of *Stockton Enterprises, LLC and Stockton Déjà Vu Boutique, LLC v. California Department of Justice* with *Lucky Bobs Internet Café, LLC v. California Department of Justice* in the Superior Court for the County of San Diego, pursuant to California Rules of Court, Rule 3.500, subdivision (d), as non-complex actions containing common questions of fact and law.

5. The above-referenced consolidated cases are pending in the Superior Court for the County of San Diego.

6. On December 11, 2009, the Superior Court for the County of San Diego overruled Defendant's demurrer to the verified Complaint filed by consolidated plaintiffs.

7. On April 30, 2010, consolidated plaintiffs were granted leave to file, and filed, a First Amended Complaint.

8. On July 2, 2010, the Superior Court for the County of San Diego overruled defendant's demurrer to the third, fourth and fifth causes of action in the First Amended Complaint filed by consolidated plaintiffs.

9. On December 2, 2010, consolidated plaintiffs were granted leave to file, and filed, a Second Amended Complaint. On December 24, 2010, the Second Amended Complaint was personally served on defendant at the office of its counsel of record, the Office of the Attorney General, 110 West "A" Street, Suite 1100, San Diego, California 92101. This notice is filed within thirty days after such service.

10. The amount in controversy in the consolidated action exceeds $750,000.00 ($250,000.00 alleged per plaintiff).

11. Defendant is entitled to removal of the above-entitled consolidated action because this Court has original jurisdiction of the subject matter of the suit. The consolidated plaintiffs' Second Amended Complaint sets forth for the first time two causes of action against Defendant arising under the Constitution and laws of the United States, to wit, alleged violations of consolidated plaintiffs' Constitutional rights to free speech and expression under the First Amendment to the United States Constitution pursuant to 42 U.S.C. Section 1983.

12. Copies of all process, pleadings, and orders served on defendant in the consolidated action are attached hereto as Exhibits A through M, inclusive.

WHEREFORE, defendant respectfully requests that the above-entitled consolidated action be removed from the Superior Court of the State of California for the County of San Diego to this Court.

Dated: January 24, 2011

Respectfully submitted,

KAMALA D. HARRIS
Attorney General of California
SARA J. DRAKE
Senior Assistant Attorney General
WILLIAM L. WILLIAMS, JR.
Deputy Attorney General

/s/ T. Michelle Laird
T. MICHELLE LAIRD
Deputy Attorney General
Attorneys for Defendant California Department of Justice

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TABLE OF CONTENTS

EXHIBIT NO.	DOCUMENT	PAGES
A	Summons and Plaintiffs' Verified Complaint for Injunctive Relief and Declaratory Relief, Superior Court of California, County of San Joaquin, Case No. 39-2009-00221372-CU-MC-STK, July 17, 2009	6-21
B	Summons and Plaintiffs' Verified Complaint for Injunctive Relief and Declaratory Relief, Superior Court of California, County of San Joaquin, Case No. 37-2009-00221372-CU-MC-NC, July 20, 2009	22-34
C	Tentative Rulings, September 24, 2009	35-38
D	Notice of Ruling, December 18, 2009	39-42
E	Defendant California Department of Justice's Answer to Lucky Bobs Internet Café, LLC's Verified Complaint for Injunctive and Declaratory Relief, December 30, 2009	43-50
F	Defendant California Department of Justice's Answer to Stockton Enterprises, LLC's and Stockton Déjà vu Boutique, LLC's Verified Complaint for Injunctive and Declaratory Relief, December 30, 2009	51-58
G	First Amended Complaint of Consolidated Plaintiffs Lucky Bobs Internet Café LLC, Stockton Enterprises, LLC and Stockton Déjà vu Boutique, LLC, March 2009	59-70
H	Tentative Rulings, April 30, 2010	71-72
I	Tentative Rulings, July 2, 2010	73-74
J	Order, July 29, 2010	75-77
K	Defendant California Department of Justice's Answer to Unverified First Amended Complaint of Plaintiffs Lucky Bobs Internet Café, LLC, Stockton Enterprises, LLC and Stockton Déjà vu Boutique, LLC, August 19, 2010	78-88

EXHIBIT NO.	DOCUMENT	PAGES
L	Stipulation and Order Regarding Filing of Second Amended Complaint and Continuing Trial Date, December 2, 2010	89-92
M	Second Amended Complaint of Consolidated Plaintiffs Lucky Bobs Internet Café LLC, Stockton Enterprises, LLC and Stockton Déjà vu Boutique, LLC, December 2, 2010	93-108

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DECLARATION OF SERVICE BY U.S. MAIL

Case Name: **Lucky Bobs Internet Cafe v. Department of Justice**
No.:

I declare:

I am employed in the Office of the Attorney General, which is the office of a member of the California State Bar, at which member's direction this service is made. I am 18 years of age or older and not a party to this matter. I am familiar with the business practice at the Office of the Attorney General for collection and processing of correspondence for mailing with the United States Postal Service. In accordance with that practice, correspondence placed in the internal mail collection system at the Office of the Attorney General is deposited with the United States Postal Service that same day in the ordinary course of business.

On **January 24, 2011**, I served the attached:

NOTICE OF REMOVAL OF CIVIL ACTION

by placing a true copy thereof enclosed in a sealed envelope with postage thereon fully prepaid, in the internal mail collection system at the Office of the Attorney General at 110 West A Street, Suite 1100, P.O. Box 85266, San Diego, CA 92186-5266, addressed as follows:

David B. Norris
Law Offices of David Baxter Norris
402 W. Broadway, Suite 1140
San Diego, CA 92101
Attorney for Plaintiffs

Clerk of Superior Court
Superior Court of California
County of San Diego
North County Division
325 S. Melrose Drive
Vista, CA 92081

I declare under penalty of perjury under the laws of the State of California the foregoing is true and correct and that this declaration was executed on **January 24, 2011**, at San Diego, California.

Roberta L. Matson
Declarant

[signature]
Signature

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JS 44 (Rev. 12/07)

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

I. (a) PLAINTIFFS
LUCKY BOBS INTERNET CAFE, LLC, STOCKTON ENT., LLC, and STOCKTON DEJA VU BOUTIQUE, LLC

DEFENDANTS
CALIFORNIA DEPARTMENT OF JUSTICE

(b) County of Residence of First Listed Plaintiff: San Diego
(EXCEPT IN U.S. PLAINTIFF CASES)

County of Residence of First Listed Defendant:
(IN U.S. PLAINTIFF CASES ONLY)
NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE LAND INVOLVED.

(c) Attorney's (Firm Name, Address, and Telephone Number)
David B. Norris, Attorney at Law (619) 232-2690
402 W. Broadway, Suite 1140

Attorneys (If Known) '11CV0148 BEN JMA
Kamala D. Harris, California Attorney General
T. Michelle Laird, Deputy Attorney General

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff
- ☒ 3 Federal Question (U.S. Government Not a Party)
- ☐ 2 U.S. Government Defendant
- ☐ 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant) (For Diversity Cases Only)

	PTF	DEF		PTF	DEF
Citizen of This State	☐ 1	☐ 1	Incorporated *or* Principal Place of Business In This State	☐ 4	☐ 4
Citizen of Another State	☐ 2	☐ 2	Incorporated *and* Principal Place of Business In Another State	☐ 5	☐ 5
Citizen or Subject of a Foreign Country	☐ 3	☐ 3	Foreign Nation	☐ 6	☐ 6

IV. NATURE OF SUIT (Place an "X" in One Box Only)

CONTRACT
- ☐ 110 Insurance
- ☐ 120 Marine
- ☐ 130 Miller Act
- ☐ 140 Negotiable Instrument
- ☐ 150 Recovery of Overpayment & Enforcement of Judgment
- ☐ 151 Medicare Act
- ☐ 152 Recovery of Defaulted Student Loans (Excl. Veterans)
- ☐ 153 Recovery of Overpayment of Veteran's Benefits
- ☐ 160 Stockholders' Suits
- ☐ 190 Other Contract
- ☐ 195 Contract Product Liability
- ☐ 196 Franchise

REAL PROPERTY
- ☐ 210 Land Condemnation
- ☐ 220 Foreclosure
- ☐ 230 Rent Lease & Ejectment
- ☐ 240 Torts to Land
- ☐ 245 Tort Product Liability
- ☐ 290 All Other Real Property

TORTS

PERSONAL INJURY
- ☐ 310 Airplane
- ☐ 315 Airplane Product Liability
- ☐ 320 Assault, Libel & Slander
- ☐ 330 Federal Employers' Liability
- ☐ 340 Marine
- ☐ 345 Marine Product Liability
- ☐ 350 Motor Vehicle
- ☐ 355 Motor Vehicle Product Liability
- ☐ 360 Other Personal Injury

PERSONAL INJURY
- ☐ 362 Personal Injury - Med. Malpractice
- ☐ 365 Personal Injury - Product Liability
- ☐ 368 Asbestos Personal Injury Product Liability

PERSONAL PROPERTY
- ☐ 370 Other Fraud
- ☐ 371 Truth in Lending
- ☐ 380 Other Personal Property Damage
- ☐ 385 Property Damage Product Liability

CIVIL RIGHTS
- ☐ 441 Voting
- ☐ 442 Employment
- ☐ 443 Housing/ Accommodations
- ☐ 444 Welfare
- ☐ 445 Amer. w/Disabilities - Employment
- ☐ 446 Amer. w/Disabilities - Other
- ☒ 440 Other Civil Rights

PRISONER PETITIONS
- ☐ 510 Motions to Vacate Sentence

Habeas Corpus:
- ☐ 530 General
- ☐ 535 Death Penalty
- ☐ 540 Mandamus & Other
- ☐ 550 Civil Rights
- ☐ 555 Prison Condition

FORFEITURE/PENALTY
- ☐ 610 Agriculture
- ☐ 620 Other Food & Drug
- ☐ 625 Drug Related Seizure of Property 21 USC 881
- ☐ 630 Liquor Laws
- ☐ 640 R.R. & Truck
- ☐ 650 Airline Regs.
- ☐ 660 Occupational Safety/Health
- ☒ 690 Other

LABOR
- ☐ 710 Fair Labor Standards Act
- ☐ 720 Labor/Mgmt. Relations
- ☐ 730 Labor/Mgmt.Reporting & Disclosure Act
- ☐ 740 Railway Labor Act
- ☐ 790 Other Labor Litigation
- ☐ 791 Empl. Ret. Inc. Security Act

IMMIGRATION
- ☐ 462 Naturalization Application
- ☐ 463 Habeas Corpus - Alien Detainee
- ☐ 465 Other Immigration Actions

BANKRUPTCY
- ☐ 422 Appeal 28 USC 158
- ☐ 423 Withdrawal 28 USC 157

PROPERTY RIGHTS
- ☐ 820 Copyrights
- ☐ 830 Patent
- ☐ 840 Trademark

SOCIAL SECURITY
- ☐ 861 HIA (1395ff)
- ☐ 862 Black Lung (923)
- ☐ 863 DIWC/DIWW (405(g))
- ☐ 864 SSID Title XVI
- ☐ 865 RSI (405(g))

FEDERAL TAX SUITS
- ☐ 870 Taxes (U.S. Plaintiff or Defendant)
- ☐ 871 IRS—Third Party 26 USC 7609

OTHER STATUTES
- ☐ 400 State Reapportionment
- ☐ 410 Antitrust
- ☐ 430 Banks and Banking
- ☐ 450 Commerce
- ☐ 460 Deportation
- ☐ 470 Racketeer Influenced and Corrupt Organizations
- ☐ 480 Consumer Credit
- ☐ 490 Cable/Sat TV
- ☐ 810 Selective Service
- ☐ 850 Securities/Commodities/ Exchange
- ☐ 875 Customer Challenge 12 USC 3410
- ☐ 890 Other Statutory Actions
- ☐ 891 Agricultural Acts
- ☐ 892 Economic Stabilization Act
- ☐ 893 Environmental Matters
- ☐ 894 Energy Allocation Act
- ☐ 895 Freedom of Information Act
- ☐ 900Appeal of Fee Determination Under Equal Access to Justice
- ☐ 950 Constitutionality of State Statutes

V. ORIGIN (Place an "X" in One Box Only)

☐ 1 Original Proceeding ☒ 2 Removed from State Court ☐ 3 Remanded from Appellate Court ☐ 4 Reinstated or Reopened ☐ 5 Transferred from another district (specify) ☐ 6 Multidistrict Litigation ☐ 7 Appeal to District Judge from Magistrate Judgment

VI. CAUSE OF ACTION
Cite the U.S. Civil Statute under which you are filing (**Do not cite jurisdictional statutes unless diversity**): 28 U.S.C. Section 1446(a)
Brief description of cause: Action to recover items seized by DOJ pursuant to Cal. Pen. Code & for civil rights violations.

VII. REQUESTED IN COMPLAINT: ☐ CHECK IF THIS IS A **CLASS ACTION** UNDER F.R.C.P. 23 **DEMAND $** CHECK YES only if demanded in complaint: **JURY DEMAND:** ☐ Yes ☐ No

VIII. RELATED CASE(S) IF ANY (See instructions): JUDGE DOCKET NUMBER

DATE: 01/24/2011
SIGNATURE OF ATTORNEY OF RECORD: /s/T. Michelle Laird

FOR OFFICE USE ONLY

RECEIPT # AMOUNT APPLYING IFP JUDGE MAG. JUDGE